

MONO COUNTY PLANNING COMMISSION

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MINUTES

JULY 10, 2014
(Adopted August 14, 2014)

COMMISSIONERS: Scott Bush, Chris Lizza, Mary Pipersky, Dan Roberts, Rodger B. Thompson

STAFF: Scott Burns, CDD director; Gerry Le Francois, principal planner, Courtney Weiche, associate planner, & Wendy Sugimura, associate analyst (video); Brent Calloway, associate analyst; Nick Criss, compliance officer; Walt Lehmann, public works; Stacey Simon, assistant county counsel; C.D. Ritter, commission secretary

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE: Chair Mary Pipersky called the meeting to order at 10:10 a.m. in the board chambers at the county courthouse in Bridgeport, and attendees recited the pledge of allegiance.

2. PUBLIC COMMENT: No items.

3. MEETING MINUTES:

MOTION: Adopt minutes of Special Meeting May 8, 2014 (*no meeting in June*) as amended: Add question mark to Tom Sigler's comment – ***He has dirt lot, so needs water/oil separator?*** (*Bush/Lizza. Ayes: 5-0.*)

4. ACTION ITEMS:

A. RESOLUTION R14-05/three affirmative votes: Stacey Simon described follow-up on voting requirements for taking action. Under state law, two votes of three can effectuate an action. However, some County Code indicates three affirmative, and Commission liked requirement of three. Ask BOS to clarify, strengthen rule. Maybe not for procedural matters, but for non-substantive matters. Commissioner Bush strongly believed in three-vote majority, with at least three of five agreeing with project. How to handle contentious meeting with only three present? Applicant needs to understand in advance unanimous vote is required. Scott Burns suggested bylaws could memorialize it. Bush noted applicant could demand vote with three present. Commissioner Lizza thought Chair ought to clarify to applicant, who could ask for continuance. Simon stated applicant could request in writing continuance for good cause. If continuance follows publication of notice, it's discretionary. Director can ask for continuance. Table until Board of Supervisors (BOS) reviews it. BOS itself is subject to three-vote requirement. Simon reminded that all Planning Commission decisions can be appealed to BOS. Bush recalled that Commission is always amenable to a proponent's request. What if someone wants it done now? He thought proponent had right to decide on going forward if only three. Simon stated it was time to think about whether in County Code or bylaws. Commissioner Thompson suggested BOS clarification, come back later on bylaws.

MOTION: Adopt Resolution R14-05 requesting and recommending that the Board of Supervisors clarify and affirm that three affirmative votes are required for the transaction of business by the Planning Commission, with specified exemptions. (Bush/Roberts. Ayes: 5-0.)

B. ROCK CREEK CANYON SPECIFIC PLAN/Interpretation on privacy fence extension: Gerry Le Francois and Maggie Palchak attended by teleconference. In 14-lot Rock Creek Canyon subdivision, privacy fencing less than 6' in height is allowed. Minimums, building envelopes, and restrictions on fencing exist in

DISTRICT #1
COMMISSIONER
Mary Pipersky

DISTRICT #2
COMMISSIONER
Rodger B. Thompson

DISTRICT #3
COMMISSIONER
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DISTRICT #4
COMMISSIONER
Scott Bush

DISTRICT #5
COMMISSIONER
Chris Lizza

envelope area, concern about lots 6, 7 and 8. If property borders Lower Rock Creek Road, solid privacy fencing is allowed. Split-rail only looks continuous, but is not on property line. Is it compatible to extend solid wood fencing 12'-14' to be contiguous from property line to gate? People come onto property, and split-rail wouldn't stop them. Staff thought fence would be compatible with Specific Plan and General Plan, but can't approve on 12'-14' section.

Easement on designated section? *On private access road. Public access to creek is open-space parcel upstream and along Mono right of way. Opposition? Staff struggled because solid fencing contiguous to gate was not addressed. No public noticing, just clarification by Planning Commission. Scott Burns noted no requirement to notice to surrounding property owners. Commission could continue to include noticing. Building site? Further downstream. Creek runs east-west. How far is split-rail from building structure? Unknown. Three lots are allowed to install fencing along property lines. Restricted additional fencing to building envelopes, split rail to allow wildlife passage.*

Palchak noted property was intersected by private road and Lower Rock Creek Road; property on both sides of creek. House probably 75'-100' from corner. People come off bike trail and into creek. Some interactions have occurred. She thanked Burns, Le Francois and Supervisor Stump for time spent. Gate was put up by Hooper when equipment was there. Specific Plan mentions gate to limit access. Other concern is "attractive nuisance," if people get into creek. Gate still there? *Yes, open most of time. Will gate stay? Auto slicing gate is a permanent structure. Purpose of gate? Limit traffic on private road. Gate swings across paved road now.*

MOTION: Find that the addition of 12-14 feet of privacy fencing is compatible and meets the purpose and objectives of the Rock Creek Canyon Specific Plan and is provided for in General Plan section 01.040. (Bush/Lizza. Ayes: 5-0.)

5. WORKSHOPS:

A. RESOURCE EFFICIENCY PLAN: Wendy Sugimura presented this plan to Mono Supervisors (BOS) for input. Background: Greenhouse Gas (GHG) section is required for EIR, so benefits the community by reducing cost of living in county, saving money and energy. New look at dealing with new information – integrate into one document, not separate. Urban-based information was tailored to Mono County. Solar and biomass efforts will be integrated directly into General Plan. Four parts: 1) GHG; 2) emissions forecast; 3) policies, projects and programs to meet targets; and 4) implementation plan. Mono exports energy, contributing to renewable energy sector, and should get credit for it just like utilities. Host of county staff reviewed policies in multi-departmental effort. Commissioner Bush appreciated tremendous effort to compile this.

Fluorescents to landfills? *Household hazardous waste, so not into trash.* Bush noted that, just like old tires, get stuck with unintended consequence that turns good idea into nightmare. Sugimura will ask questions. Scott Burns indicated waste management policies would be integrated into General Plan.

Commissioner Lizza noted Edison programs are looking at lighting, refrigerators. Utilities have helped businesses implement energy-saving improvements.

Commissioner Pipersky was impressed with amount of work. Document shows what government can do.

Sugimura thought encouraging and incentivizing should make sense to business owners. Direction came from BOS. Had to address issues for EIR in General Plan update, so expanded a little further. Grant funding facilitated the effort. No sanctions for not complying, but streamlining for other people could be eligible for other grants.

Old hospital? *Replaced boilers, modified HVAC system so not heating entire building.*

B. GENERAL PLAN DEVELOPMENT STANDARDS, Part III: Brent Calloway led a third workshop on development standards.

Lot dimensions: Adjust language in required minimum lot size to reflect latest terminology requested by Environmental Health Director Louis Molina. Community leach field for small community. Lot dimensions are dictated by health requirements. Well and septic usually are included. 40,000 sq. ft. minimum forever. Now get Mono in line with new regulations coming from Lahontan Regional Water Quality Control Board.

Depth-to-width ratio: Apply to usable space. Scott Burns thought it could be deleted, but urban settings might get long, narrow lots. Problems on larger parcels. Not applied in Specific Plan areas that get

master plan. Commissioner Bush recalled property lines to middle of river in Walker. Commissioner Lizza asked why limit depth? Scott Burns cited parameters for lot dimensions in community. 60' minimum. Maybe different way to provide guidance instead of ratio? Commissioner Pipersky: Bring back width-to-depth ratio.

RV storage on vacant property: Nick Criss noted camping overlay districts are contentious. If RV becomes permanent second unit, it's a problem. If cars or boats not allowed on private property, why allow RVs? Stacey Simon stated exception for storage of RV is a problem, but has nothing to do with camping. BOS cannot amend General Plan unless Planning Commission recommends.

Why are RVs exempted? Delete: "Storage of RVs on vacant parcels is exempt from these requirements." Treat RVs like any other vehicle on vacant property.

Mixed Use: Calloway noted Walker has Mixed Use front, Estate Residential back. Stacey Simon noted it is not limited to less-restrictive designation – pick one designation. Long-term goal would be elimination of dual designation. Can a property have a dual designation? *Subdivide and clarify, or other procedure that doesn't require lot split.*

Simon saw it as creating a loophole that eviscerates lot minimum. Scott Burns noted RPAC supported splitting properties with dual designation, but can't legally split because can't meet minimums.

Commissioner Thompson suggested baseline first, and then come back to this.

Planned unit development: Eliminate reference.

Mobile food vendor: Courtney Weiche cited increased desire to start food trucks. Three now permitted were processed as Director Review (DR) with notice. Use Permit (UP) could be required if controversial. Using General Plan development standards and existing environmental health requirements, could drop down to DR. Two at June Lake and one in Lee Vining will cease operation in October. Tighten up regulations, set more formalized standards. Researched other jurisdictions, developed some standards and guidelines. Definition provided.

Why 200' for restroom? *Health & Safety Code?*

Weiche noted huge activity explosion in mobile food industry. Some jurisdictions reacted with ordinances. Preparing food in truck? *Some used for promotion of eateries. Smaller investment than a structure. Trend in food industry. Sometimes on parking lots or private land as temporary use. Mono's are for 180 days or less. Consider paved parking for longer-term use.*

Issue with year-round? Burns got lots of local comment after first one several years ago. Kept it to a season. For longer-term use, maybe public hearing at Commission if no annual review. Kick into UP; could always downgrade to DR if needed. Time to set some good guidelines, move into UP.

Bush suggested always looking at long-term consequences. Would this cannibalize established restaurants if longer than a season? E.g., if Schwan's added other products, brick-mortar would take back seat. Burns suggested starting at UP level unless clean proposal for DR. If there's support, keep at DR level. Burns noted applicants ask about specific properties. Get some guidelines, could be appendix to Design Guidelines in General Plan. Blend guidelines and regulations?

Lizza viewed mobile food vendor as different from catering. They should all be subject to UP, as they could come back every year, he thought.

Alpine Deli acts as commissary for Tavish, and Mono Market for Ohana's. Stacey Simon suggested Roberts **and Lizza** should recuse himself **themselves** from discussion if it's a **potential** source of income.

A Use Permit is easier to enforce, but Weiche received criticism from applicants due to short season. UP takes time to process, whereas Director Review is fairly quick (property owner notice with 20 days to respond). UP could take long time for temporary use.

Burns suggested including in General Plan update as it's a more-involved, lengthy process.

Pipersky stated she was OK with DR for 180 days, as were Bush and Roberts.

Weiche indicated new application is required if location changes. Lizza noted application runs with property, not with truck.

Weiche stated every jurisdiction tries to regulate activity in public right of way. Other places have time limits on site.

Simon indicated Health & Safety Code has preemption when in right of way and may have limited authority of time/place regulation. Some right-of-way entitlement exists that Mono has no authority to limit. Simon will research.

Weiche reported another proposed application for June Lake. Other places sometimes limit number of food trucks (distance from each other?). Vending within minimum distance of established restaurant during business hours. Guidelines vs. regulations. Vendors steered away from existing food types at restaurants.

Bush preferred a level playing field in terms of taxes, hostesses, servers, etc.

Pipersky saw food carts as a bigger issue than previously thought. Discuss again? *Yes.*

Ch. 15: Gerry Le Francois noted Ch. 15 info applies to whole variety of uses. Past focus was on sand and gravel, now standards broadened to include resource-extraction activities. Most projects are on federal land. Visual impacts: Darker colors work better across vast distances.

Broaden to include Edison facility relocation? *PUC trumps Mono's requirements of a utility. Explore.* Simon noted local plans create expectations that might be subject to preemption by PUC. Preemption is not clearly explained, so continual debate results. Establish policies and desires. PUC does its best, but has no obligation to do so. Incentive exists to create local policies that PUC will consider, but avoid heightened expectations. Thompson noted that even though counties tried to regulate, State is lead agency for timber harvesting.

Mammoth Pacific received challenges to stop project, greenmailing. Tremendous amount of staff time involved in preparing administrative record, and not reimbursable expenses. Stacey Simon stated petitioners have to bear cost of preparing admin record, but Mono wanted to maintain control of record, so charged \$6,000 for preparation. Policies required project proponent to pay all costs. Inherent risk to charge appellant. Cost of doing biz is more and more expensive.

Resource development activities are subject to UP. Create new chapter about infrastructure, roads, etc., and bring back later. Exterior property line? *Property boundary. Delete "exterior." Property line is property line.*

6. REPORTS:

A. DIRECTOR: Stacey Simon updated geothermal: MP-I approved (replace existing with newer, more-efficient plant), appealed to BOS, challenged in court. Won in trial court. Appeal period passed, so done! CD-IV project does not yet have all final approvals. Air Pollution Control District is lead agency.

B. COMMISSIONERS: None

7. INFORMATIONAL: No items

8. ADJOURN at 2:10 p.m. to August 14, 2014

Prepared by C.D. Ritter, commission secretary